

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of BENNETT TAYLOR HANNAH,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TIMOTHY HANNAH,

Respondent-Appellant.

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UNPUBLISHED

August 10, 2006

No. 267529

Montcalm Circuit Court

Family Division

LC No. 2005-000193-NA

Before: Whitbeck, C.J., and Hoekstra and Wilder, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (g), and (j). We affirm.

Although respondent's question presented is somewhat unclear, the only issue argued in his brief is whether the lower court erred when it found clear and convincing evidence of statutory grounds to terminate his parental rights. A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003).

Respondent's efforts before his incarceration, while extremely limited, may have been sufficient to avoid a finding that he deserted his child for more than 90 days, as required under MCL 712A.19b(3)(a)(ii). However, the lower court's decision must be affirmed if there was sufficient evidence to establish at least one statutory ground. See *In re Trejo Minors*, 462 Mich 341, 360; 612 NW2d 407 (2000). Respondent failed to provide proper care and custody of his child under MCL 712A.19b(3)(g) when he allowed the child's maternal aunt to take custody after the birth. He was not able to provide proper care when his rights were terminated because he was incarcerated facing drug-related charges.

There was also sufficient evidence that he was not reasonably likely to provide proper care within a reasonable time. He failed to ever submit a negative drug screen and instead refused twice, missed an appointment, and provided an abnormally cold sample. As a result, he was never able to visit the child during the proceedings. He obtained a psychological evaluation but never sought the required parenting classes. He claimed he placed himself on the waiting list

for a sober living unit, which would take three to six months; however, he did not explain why he did not seek substance abuse treatment before his arrest. Although respondent had part-time employment and housing, he did not demonstrate any progress toward a lifestyle free of crime and drugs. Therefore, the lower court did not clearly err in finding grounds to terminate respondent's parental rights under MCL 712A.19b(3)(g).

Whenever a lower court finds a statutory ground for termination, it must terminate parental rights unless termination was clearly against the child's best interests. MCL 712A.19b(5); see also *Trejo, supra* at 354. Respondent does not challenge the best interests finding on appeal and did not present any evidence that termination was against the child's best interests. The child never had an opportunity to bond with respondent. The lower court did not err when it held that termination was not clearly against the child's best interests and terminated respondent's parental rights.

Affirmed.

/s/ William C. Whitbeck

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder